

## SENATE BILL NO. 2

INTRODUCED BY WILLIAMS, GLASER, RYAN, RASER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO EDUCATION; ESTABLISHING A LOAN ASSISTANCE PROGRAM FOR AREAS WITH QUALIFIED EDUCATOR SHORTAGES; PROVIDING A SOURCE OF FUNDING FOR SCHOOL FACILITY IMPROVEMENTS; PROVIDING THAT MINERAL ROYALTIES PURCHASED THROUGH A LOAN FROM THE COAL SEVERANCE TAX PERMANENT FUND IN EXCESS OF THE AMOUNT NECESSARY TO REPAY THE LOAN BE TRANSFERRED FROM THE GUARANTEE ACCOUNT TO A SCHOOL FACILITY IMPROVEMENT ACCOUNT; ~~MAKING ALL KINDERGARTEN PROGRAMS OPTIONAL;~~ PROVIDING FULL-TIME ANB FUNDING TO PUBLIC SCHOOL DISTRICTS FOR OPTIONAL ENROLLMENT OF STUDENTS IN A FULL-TIME KINDERGARTEN PROGRAM OFFERED BY A DISTRICT; PROVIDING STARTUP COSTS FOR FULL-TIME KINDERGARTEN; CHANGING THE METHOD FOR CALCULATING THE BASIC ENTITLEMENT FOR APPROVED AND ACCREDITED JUNIOR HIGH AND MIDDLE SCHOOLS; INCREASING THE QUALITY EDUCATOR PAYMENT AND EXPANDING ELIGIBLE INDIVIDUALS; PROVIDING INFLATIONARY INCREASES TO SCHOOLS; INCREASING THE PERCENTAGE OF GUARANTEED TAX BASE AID; PROHIBITING DIVERSION OF INDIAN EDUCATION FOR ALL FUNDS; REVISING THE GOVERNOR'S POSTSECONDARY SCHOLARSHIP PROGRAM; AUTHORIZING ONE-TIME-ONLY PAYMENTS TO SCHOOLS FOR PURPOSES OF CAPITAL INVESTMENT AND DEFERRED MAINTENANCE CONTINGENT ON THE AVAILABILITY OF FUNDS; PROVIDING A DISTRIBUTION MECHANISM FOR ONE-TIME-ONLY INDIAN EDUCATION FOR ALL MONEY; AMENDING SECTIONS 17-6-340, 20-1-301, 20-3-205, 20-7-117, 20-9-306, 20-9-311, 20-9-313, 20-9-314, 20-9-327, 20-9-329, 20-9-330, 20-9-366, 20-9-622, 20-26-602, AND 20-26-603, MCA; REPEALING SECTIONS 20-26-611, 20-26-612, AND 20-26-613, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Quality educator loan assistance program.** There is a quality educator loan assistance program administered by the board of regents through the office of the commissioner of higher education. The program must provide for the direct repayment of educational loans of eligible quality educators

1 in accordance with policies and procedures adopted by the board of regents in accordance with [sections 1  
2 through 6].

3  
4 **NEW SECTION. Section 2. Definitions.** For purposes of [sections 1 through 6], unless the context  
5 requires otherwise, the following definitions apply:

6 (1) "Education cooperative" means a cooperative of Montana public schools as described in 20-7-451.

7 (2) "Educational loans" means all loans made pursuant to a federal loan program, except federal parent  
8 loans for undergraduate students (PLUS) loans, as provided in 20 U.S.C. 1078-2.

9 (3) "Federal loan program" means educational loans authorized by 20 U.S.C. 1071, et seq., 20 U.S.C.  
10 1087a, et seq., and 20 U.S.C. 1087aa, et seq.

11 (4) (a) "Quality educator" means a full-time equivalent educator, as reported to the superintendent of  
12 public instruction for accreditation purposes in the previous school year, who:

13 (i) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in  
14 subsection (4)(b) in a position that requires an educator license in accordance with administrative rules adopted  
15 by the board of public education; or

16 (ii) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-22-301,  
17 37-23-201, 37-24-301, or 37-25-302 and is employed by an entity listed in subsection (4)(b) of this section to  
18 provide services to students.

19 (b) For purposes of subsection (4)(a), an entity means:

20 (i) a school district;

21 (ii) an education cooperative;

22 (iii) the Montana school for the deaf and blind, as described in 20-8-101;

23 (iv) the Montana youth challenge program; and

24 (v) a state youth correctional facility, as defined in 41-5-103.

25 (5) "School district" means a public school district, as provided in 20-6-101 and 20-6-701.

26  
27 **NEW SECTION. Section 3. Critical quality educator shortages.** (1) The board of public education,  
28 in consultation with the office of public instruction, shall identify:

29 (a) specific schools that are impacted by critical quality educator shortages; and

30 (b) within the schools identified in subsection (1)(a), the specific quality educator licensure or

endorsement areas that are impacted by critical quality educator shortages.

(2) The board of public education shall publish an annual report listing the schools and the licensure or endorsement areas identified as impacted by critical quality educator shortages, explaining the reasons that specific schools and licensure or endorsement areas have been identified and providing information regarding any success in retention.

(3) Quality educators working at schools identified in subsection (1) are eligible for repayment of all or part of the quality educator's outstanding educational loans existing at the time of application in accordance with the eligibility and award criteria established under [sections 1 through 6].

**NEW SECTION. Section 4. Loan repayment assistance.** Loan repayment assistance may be provided on behalf of a quality educator who:

(1) is employed in an identified school described in [section 3(1)]; and

(2) has an educational loan that is not in default and that has a minimum unpaid current balance of at least \$1,000 at the time of application.

**NEW SECTION. Section 5. Loan repayment assistance documentation.** (1) A quality educator shall submit an application for loan repayment assistance to the board of regents in accordance with policies and procedures adopted by the board of regents. The application must include official verification or proof of the applicant's total unpaid accumulated educational loan debt and other documentation required by the board of regents that is necessary for verification of the applicant's eligibility.

(2) A quality educator is eligible for loan repayment assistance for up to a maximum of 4 years. The total annual loan repayment assistance for an eligible quality educator may not exceed \$3,000. The board of regents may require an eligible quality educator to provide documentation that the quality educator has exhausted repayment assistance from other federal, state, or local loan forgiveness, discharge, or repayment incentive programs.

(3) The board of regents may remit payment of the loan on behalf of the quality educator in accordance with the requirements of [sections 1 through 6] and policies and procedures adopted by the board of regents.

**NEW SECTION. Section 6. Funding -- priorities.** (1) If the funding for [sections 1 through 6] in any year is less than the total amount for which Montana quality educators qualify, the board of regents shall provide

1 preference in the award of loan repayment assistance to quality educators working in the specific schools that  
2 are most impacted by quality educator shortages identified as provided in [section 3].

3 (2) [Sections 1 through 6] may not be construed to require the provision of loan repayment assistance  
4 without an express appropriation for that purpose. [Sections 1 through 6] may not be construed to require loan  
5 repayment assistance for school years prior to [the effective date of this section].

6  
7 **Section 7.** Section 17-6-340, MCA, is amended to read:

8 **"17-6-340. Purchase of permanent fund mineral estate.** The department of natural resources and  
9 conservation may purchase the mineral production rights held by the public school fund established in Article X,  
10 section 2, of the Montana constitution for fair market value. If the department of natural resources and  
11 conservation purchases mineral production rights, any royalty payments received by the board that are not used  
12 to reimburse the coal severance tax trust fund for the loan used for purchasing the mineral production rights must  
13 be deposited in the guarantee account provided for in 20-9-622 and transferred to the school facility improvement  
14 account provided for in [section 8]."

15  
16 NEW SECTION. **Section 8. School facility improvement account.** There is a school facility  
17 improvement account in the state special revenue fund provided for in 17-2-102. The purpose of the account is  
18 to provide money to schools to implement the recommendations of the school facility condition and needs  
19 assessment and energy audit conducted pursuant to section 1, Chapter 1, Special Laws of December 2005, for:

- 20 (1) major deferred maintenance;  
21 (2) improving energy efficiency in school facilities; ~~and~~ OR  
22 (3) critical infrastructure in school districts ~~with changing student populations.~~

23  
24 **Section 9.** Section 20-1-301, MCA, is amended to read:

25 **"20-1-301. School fiscal year.** (1) The school fiscal year begins on July 1 and ends on June 30. At least  
26 the minimum aggregate hours defined in subsection (2) must be conducted during each school fiscal year, except  
27 that 1,050 aggregate hours of pupil instruction for graduating seniors may be sufficient ~~or a minimum of 360~~  
28 ~~aggregate hours of pupil instruction must be conducted for a kindergarten program, as provided in 20-7-117.~~

29 (2) The minimum aggregate hours required by grade are:

30 (a) 360 hours for a half-time kindergarten program or 720 hours for a full-time kindergarten program, as

1 provided in 20-7-117;

2 ~~(a)~~(b) 720 hours for grades 1 through 3; and

3 ~~(b)~~(c) 1,080 hours for grades 4 through 12.

4 (3) For any elementary or high school district that fails to provide for at least the minimum aggregate  
5 hours, as listed in subsections (1) and (2), the superintendent of public instruction shall reduce the direct state  
6 aid for the district for that school year by two times an hourly rate, as calculated by the office of public instruction,  
7 for the aggregate hours missed."

8  
9 **Section 10.** Section 20-3-205, MCA, is amended to read:

10 **"20-3-205. Powers and duties.** (1) The county superintendent has general supervision of the schools  
11 of the county within the limitations prescribed by this title and shall perform the following duties or acts:

12 (a) determine, establish, and reestablish trustee nominating districts in accordance with the provisions  
13 of 20-3-352, 20-3-353, and 20-3-354;

14 (b) administer and file the oaths of members of the boards of trustees of the districts in the county in  
15 accordance with the provisions of 20-3-307;

16 (c) register the teacher or specialist certificates or emergency authorization of employment of any person  
17 employed in the county as a teacher, specialist, principal, or district superintendent in accordance with the  
18 provisions of 20-4-202;

19 (d) file a copy of the audit report for a district in accordance with the provisions of 20-9-203;

20 (e) classify districts in accordance with the provisions of 20-6-201 and 20-6-301;

21 (f) keep a transcript of the district boundaries of the county;

22 (g) fulfill all responsibilities assigned under the provisions of this title regulating the organization,  
23 alteration, or abandonment of districts;

24 (h) act on any unification proposition and, if approved, establish additional trustee nominating districts  
25 in accordance with 20-6-312 and 20-6-313;

26 (i) estimate the average number belonging (ANB) of an opening school in accordance with the provisions  
27 of 20-6-502, 20-6-503, 20-6-504, or 20-6-506;

28 (j) process and, when required, act on school isolation applications in accordance with the provisions  
29 of 20-9-302;

30 (k) complete the budgets, compute the budgeted revenue and tax levies, file final budgets and budget

1 amendments, and fulfill other responsibilities assigned under the provisions of this title regulating school  
2 budgeting systems;

3 (l) submit an annual financial report to the superintendent of public instruction in accordance with the  
4 provisions of 20-9-211;

5 (m) monthly, unless otherwise provided by law, order the county treasurer to apportion state money,  
6 county school money, and any other school money subject to apportionment in accordance with the provisions  
7 of 20-9-212, 20-9-347, 20-10-145, or 20-10-146;

8 (n) act on any request to transfer average number belonging (ANB) in accordance with the provisions  
9 of ~~20-9-313(3)~~ 20-9-313(1)(c);

10 (o) calculate the estimated budgeted general fund sources of revenue in accordance with the general  
11 fund revenue provisions of the general fund part of this title;

12 (p) compute the revenue and compute the district and county levy requirements for each fund included  
13 in each district's final budget and report the computations to the board of county commissioners in accordance  
14 with the provisions of the general fund, transportation, bonds, and other school funds parts of this title;

15 (q) file and forward bus driver certifications, transportation contracts, and state transportation  
16 reimbursement claims in accordance with the provisions of 20-10-103, 20-10-143, or 20-10-145;

17 (r) for districts that do not employ a district superintendent or principal, recommend library book and  
18 textbook selections in accordance with the provisions of 20-7-204 or 20-7-602;

19 (s) notify the superintendent of public instruction of a textbook dealer's activities when required under  
20 the provisions of 20-7-605 and otherwise comply with the textbook dealer provisions of this title;

21 (t) act on district requests to allocate federal money for indigent children for school food services in  
22 accordance with the provisions of 20-10-205;

23 (u) perform any other duty prescribed from time to time by this title, any other act of the legislature, the  
24 policies of the board of public education, the policies of the board of regents relating to community college  
25 districts, or the rules of the superintendent of public instruction;

26 (v) administer the oath of office to trustees without the receipt of pay for administering the oath;

27 (w) keep a record of official acts, preserve all reports submitted to the superintendent under the  
28 provisions of this title, preserve all books and instructional equipment or supplies, keep all documents applicable  
29 to the administration of the office, and surrender all records, books, supplies, and equipment to the next  
30 superintendent;

(x) within 90 days after the close of the school fiscal year, publish an annual report in the county newspaper stating the following financial information for the school fiscal year just ended for each district of the county:

(i) the total of the cash balances of all funds maintained by the district at the beginning of the year;

(ii) the total receipts that were realized in each fund maintained by the district;

(iii) the total expenditures that were made from each fund maintained by the district; and

(iv) the total of the cash balances of all funds maintained by the district at the end of the school fiscal year; and

(y) hold meetings for the members of the trustees from time to time at which matters for the good of the districts must be discussed.

(2) (a) When a district in one county annexes a district in another county, the county superintendent of the county where the annexing district is located shall perform the duties required by this section.

(b) When two or more districts in more than one county consolidate, the duties required by this section must be performed by the county superintendent designated in the same manner as other county officials in 20-9-202."

**Section 11.** Section 20-7-117, MCA, is amended to read:

**"20-7-117. Five-year-old schooling and preschool programs.** (1) The trustees of an elementary district ~~shall~~ MAY SHALL establish or make available a kindergarten program capable of accommodating, at a minimum, all the children in the district who will be 5 years old on or before September 10 of the school year for which the program is to be conducted or who have been enrolled by special permission of the board of trustees. The kindergarten program, which the trustees may designate as either a half-time or full-time program, must be an integral part of the elementary school and must be financed and governed accordingly, provided that to be eligible for inclusion in the calculation of ANB pursuant to 20-9-311, a child must have reached ~~the age of 5 years~~ of age on or before September 10 of the school year covered by the calculation or have been enrolled by special permission of the board of trustees. A kindergarten program must meet the minimum aggregate hour requirements established in 20-1-301. A kindergarten program that is designated as a full-time program must allow a parent, guardian, or other person who is responsible for the enrollment of a child in school, as provided in 20-5-102, to enroll the child half-time.

(2) The trustees of an elementary school district may establish and operate a free preschool program

for children between the ages of 3 and 5 years. When preschool programs are established, they must be an integral part of the elementary school and must be governed accordingly. Financing of preschool programs may not be supported by money available from state equalization aid."

**Section 12.** Section 20-9-306, MCA, is amended to read:

**"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "BASE" means base amount for school equity.

(2) "BASE aid" means:

(a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district;

(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement, up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the special education allowable cost payment;

(c) the total quality educator payment;

(d) the total at-risk student payment;

(e) the total Indian education for all payment; and

(f) the total American Indian achievement gap payment.

(3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80% of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap payment, and 140% of the special education allowable cost payment.

(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:



(a) ~~\$230,199~~ for each high school district;

(i) \$236,552 for fiscal year 2008; and

(ii) ~~\$243,578~~ \$243,649 for each succeeding fiscal year;

(b) ~~\$20,718~~ for each elementary school district or K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school;

(i) \$21,290 for fiscal year 2008;

(ii) \$21,922 for each succeeding fiscal year; and

(c) ~~the prorated entitlement~~ for each elementary school district or K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school, ~~calculated as follows using either the current year ANB or the 3-year ANB provided for in 20-9-311:~~

~~(i) \$20,718 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of kindergarten through grade 8 elementary program:~~

(A) \$21,290 for fiscal year 2008; and

(B) \$21,922 for each succeeding fiscal year; plus

~~(ii) \$230,199 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade 8 for an approved and accredited junior high school program, 7th and 8th grade program, or middle school:~~

(A) \$60,275 for fiscal year 2008; and

(B) \$62,083 for each succeeding fiscal year.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment, the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement gap payment, and the greater of:

(a) 175% of special education allowable cost payments; or

(b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a maximum allowable ratio of 200%.

(10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted that is above the BASE budget and below the maximum general fund budget for a district.

(11) "Total American Indian achievement gap payment" means the payment resulting from multiplying \$200 times the number of American Indian students enrolled in the district as provided in 20-9-330.

(12) "Total at-risk student payment" means the payment resulting from the distribution of any funds appropriated for the purposes of 20-9-328.

(13) "Total Indian education for all payment" means the payment resulting from multiplying \$20.40 times the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.

(14) "Total per-ANB entitlement" means the district entitlement resulting from the following calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

(a) for a high school district or a K-12 district high school program, a maximum rate of ~~\$5,704~~ \$5,861 for fiscal year 2008 and \$6,037 for each succeeding fiscal year for the first ANB, is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

(b) for an elementary school district or a K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of ~~\$4,456~~ \$4,579 for fiscal year 2008 and \$4,716 for each succeeding fiscal year for the first ANB, is decreased at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(c) for an elementary school district or a K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

(i) a maximum rate of ~~\$4,456~~ \$4,579 for fiscal year 2008 and \$4,716 for each succeeding fiscal year for the first ANB for kindergarten through grade 6, is decreased at the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

(ii) a maximum rate of ~~\$5,704~~ \$5,861 for fiscal year 2008 and \$6,037 for each succeeding fiscal year for the first ANB for grades 7 and 8, is decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB.

(15) "Total quality educator payment" means the payment resulting from multiplying ~~\$2,000~~ \$3,036 for

1 fiscal year 2008 and \$3,042 for each succeeding fiscal year times the number of full-time equivalent educators  
2 as provided in 20-9-327."

3  
4 **Section 13.** Section 20-9-311, MCA, is amended to read:

5 **"20-9-311. (Temporary) Calculation of average number belonging (ANB) -- three-year averaging.**

6 (1) Average number belonging (ANB) must be computed for each budget unit as follows:

7 (a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were  
8 enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on  
9 February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and  
10 divide the sum by two; and

11 (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved  
12 pupil-instruction-related days for the current school fiscal year and divide by 180.

13 (2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related  
14 days may be included in the calculation.

15 (3) When a school district has approval to operate less than the minimum aggregate hours under  
16 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

17 (4) (a) ~~Except as provided in subsection (5), for~~ For the purpose of calculating ANB, enrollment in an  
18 education program:

19 (i) ~~from 181 to 359~~ from 180 to 359 aggregate hours of pupil instruction per school year is counted as  
20 one-quarter-time enrollment;

21 (ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time  
22 enrollment;

23 (iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time  
24 enrollment; and

25 (iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

26 (b) Enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per  
27 school year may not be included for purposes of ANB.

28 (c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on  
29 the hours necessary and appropriate to provide the course within a regular classroom schedule.

30 (d) A pupil in ~~grades 4~~ kindergarten through grade 12 who is concurrently enrolled in more than one

1 public school, program, or district may not be counted as more than one full-time pupil for ANB purposes.

2 (5) ~~In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in~~  
3 ~~a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as~~  
4 ~~one-half pupil for ANB purposes.~~ For a district that is transitioning from a half-time to a full-time kindergarten  
5 program, the state superintendent shall count kindergarten enrollment in the previous year as full-time enrollment  
6 for the purpose of calculating ANB for the elementary programs offering full-time kindergarten in the current year.  
7 For the purposes of calculating the 3-year ANB, the superintendent of public instruction shall count the  
8 kindergarten enrollment as one-half enrollment and then add the additional kindergarten ANB to the 3-year  
9 average ANB for districts offering full-time kindergarten.

10 (6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days,  
11 the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes  
12 attendance prior to the day of the enrollment count.

13 (7) The enrollment of ~~prekindergarten~~ preschool pupils, as provided in 20-7-117, may not be included  
14 in the ANB calculations.

15 (8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a  
16 district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the  
17 district, except that the ANB is calculated as a separate budget unit when:

18 (a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town  
19 located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled,  
20 full-time pupils of the school must be calculated as a separate budget unit for ANB purposes and the district must  
21 receive a basic entitlement for the school calculated separately from the other schools of the district;

22 (ii) a school of the district is located more than 20 miles from any other school of the district and  
23 incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school  
24 must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school  
25 calculated separately from the other schools of the district;

26 (iii) the superintendent of public instruction approves an application not to aggregate when conditions  
27 exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any  
28 other condition exists that would result in an unusual hardship to the pupils of the school if they were transported  
29 to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately  
30 for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the

1 other schools of the district; or

2 (iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and  
3 the basic entitlements of the component districts must be calculated separately for a period of 3 years following  
4 the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional  
5 years as follows:

6 (A) 75% of the basic entitlement for the fourth year;

7 (B) 50% of the basic entitlement for the fifth year; and

8 (C) 25% of the basic entitlement for the sixth year.

9 (b) a junior high school has been approved and accredited as a junior high school, all of the regularly  
10 enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB  
11 purposes;

12 (c) a middle school has been approved and accredited, all pupils below the 7th grade must be  
13 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high  
14 school pupils for ANB purposes; or

15 (d) a school has not been accredited by the board of public education, the regularly enrolled, full-time  
16 pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes,  
17 nor will an average number belonging for the nonaccredited school be used in determining the BASE funding  
18 program for the district.

19 (9) The district shall provide the superintendent of public instruction with semiannual reports of school  
20 attendance, absence, and enrollment for regularly enrolled students, using a format determined by the  
21 superintendent.

22 (10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program  
23 provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes  
24 only if the pupil is offered access to the complete range of educational services for the basic education program  
25 required by the accreditation standards adopted by the board of public education.

26 (b) Access to school programs and services for a student placed by the trustees in a private program  
27 for special education may be limited to the programs and services specified in an approved individual education  
28 plan supervised by the district.

29 (c) Access to school programs and services for a student who is incarcerated in a facility, other than a  
30 youth detention center, may be limited to the programs and services provided by the district at district expense

1 under an agreement with the incarcerating facility.

2 (d) This subsection (10) may not be construed to require a school district to offer access to activities  
3 governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a  
4 pupil who is not otherwise eligible under the rules of the organization.

5 (11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this  
6 title and who is:

7 (a) a resident of the district or a nonresident student admitted by trustees under a student attendance  
8 agreement and who is attending a school of the district;

9 (b) unable to attend school due to a medical reason certified by a medical doctor and receiving  
10 individualized educational services supervised by the district, at district expense, at a home or facility that does  
11 not offer an educational program;

12 (c) unable to attend school due to the student's incarceration in a facility, other than a youth detention  
13 center, and who is receiving individualized educational services supervised by the district, at district expense, at  
14 a home or facility that does not offer an educational program;

15 (d) receiving special education and related services, other than day treatment, under a placement by the  
16 trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's  
17 expense under an approved individual education plan supervised by the district;

18 (e) participating in the running start program at district expense under 20-9-706;

19 (f) receiving educational services, provided by the district, using appropriately licensed district staff at  
20 a private residential program or private residential facility licensed by the department of public health and human  
21 services;

22 (g) enrolled in an educational program or course provided at district expense using electronic or offsite  
23 delivery methods, including but not limited to tutoring, distance learning programs, online programs, and  
24 technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite  
25 instructional setting with the approval of the trustees of the district. The pupil shall:

26 (i) meet the residency requirements for that district as provided in 1-1-215;

27 (ii) live in the district and must be eligible for educational services under the Individuals With Disabilities  
28 Education Act or under 29 U.S.C. 794; or

29 (iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

30 (h) a resident of the district attending a Montana job corps program under an interlocal agreement with

1 the district under 20-9-707.

2 (12) (a) For an elementary or high school district that has been in existence for 3 years or more, the  
3 district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated  
4 using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever  
5 generates the greatest maximum general fund budget.

6 (b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund  
7 budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and  
8 high school programs pursuant to subsection (12)(a) and then combined.

9 (13) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

10 (a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the  
11 previous 2 school fiscal years; and

12 (b) dividing the sum calculated under subsection (13)(a) by three. (Terminates June 30, 2007--sec. 25(2),  
13 Ch. 462, L. 2005.)

14 **20-9-311. (Effective July 1, 2007) Calculation of average number belonging (ANB) -- three-year**  
15 **averaging.** (1) Average number belonging (ANB) must be computed FOR EACH BUDGET UNIT as follows:

16 (a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were  
17 enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on  
18 February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and  
19 divide the sum by two; and

20 (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved  
21 pupil-instruction-related days for the current school fiscal year and divide by 180.

22 (2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related  
23 days may be included in the calculation.

24 (3) When a school district has approval to operate less than the minimum aggregate hours under  
25 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

26 (4) (a) ~~Except as provided in subsection (5), for~~ For the purpose of calculating ANB, enrollment in an  
27 education program:

28 (i) from ~~484~~ 180 to 359 aggregate hours of pupil instruction per school year is counted as  
29 one-quarter-time enrollment;

30 (ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time

1 enrollment;

2 (iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time  
3 enrollment; and

4 (iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

5 (b) Enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per  
6 school year may not be included for purposes of ANB.

7 (c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on  
8 the hours necessary and appropriate to provide the course within a regular classroom schedule.

9 (d) A pupil in ~~grades 1~~ kindergarten through grade 12 who is concurrently enrolled in more than one  
10 public school, program, or district may not be counted as more than one full-time pupil for ANB purposes.

11 (5) ~~In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in~~  
12 ~~a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as~~  
13 ~~one-half pupil for ANB purposes. For a district that is transitioning from a half-time to a full-time kindergarten~~  
14 ~~program, the state superintendent shall count kindergarten enrollment in the previous year as full-time enrollment~~  
15 ~~for the purpose of calculating ANB for the elementary programs offering full-time kindergarten in the current year.~~  
16 For the purposes of calculating the 3-year ANB, the superintendent of public instruction shall count the  
17 kindergarten enrollment as one-half enrollment and then add the additional kindergarten ANB to the 3-year  
18 average ANB for districts offering full-time kindergarten.

19 (6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days,  
20 the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes  
21 attendance prior to the day of the enrollment count.

22 (7) The enrollment of ~~prekindergarten~~ preschool pupils, as provided in 20-7-117, may not be included  
23 in the ANB calculations.

24 (8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a  
25 district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the  
26 district, except that THE ANB IS CALCULATED AS A SEPARATE BUDGET UNIT when:

27 (a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town  
28 located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled,  
29 full-time pupils of the school must be calculated ~~separately~~ AS A SEPARATE BUDGET UNIT for ANB purposes and the  
30 district must receive a basic entitlement for the school calculated separately from the other schools of the district;



(ii) a school of the district is located more than 20 miles from any other school of the district and incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district;

(iii) the superintendent of public instruction approves an application not to aggregate when conditions exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any other condition exists that would result in an unusual hardship to the pupils of the school if they were transported to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the other schools of the district; or

(iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and the basic entitlements of the component districts must be calculated separately for a period of 3 years following the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional years as follows:

(A) 75% of the basic entitlement for the fourth year;

(B) 50% of the basic entitlement for the fifth year; and

(C) 25% of the basic entitlement for the sixth year.

(b) a junior high school has been approved and accredited as a junior high school, all of the regularly enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB purposes;

(c) a middle school has been approved and accredited, all pupils below the 7th grade must be considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high school pupils for ANB purposes; or

(d) a school has not been accredited by the board of public education, the regularly enrolled, full-time pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes, nor will an average number belonging for the nonaccredited school be used in determining the BASE funding program for the district.

(9) The district shall provide the superintendent of public instruction with semiannual reports of school attendance, absence, and enrollment for regularly enrolled students, using a format determined by the superintendent.

(10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes only if the pupil is offered access to the complete range of educational services for the basic education program required by the accreditation standards adopted by the board of public education.

(b) Access to school programs and services for a student placed by the trustees in a private program for special education may be limited to the programs and services specified in an approved individual education plan supervised by the district.

(c) Access to school programs and services for a student who is incarcerated in a facility, other than a youth detention center, may be limited to the programs and services provided by the district at district expense under an agreement with the incarcerating facility.

(d) This subsection (10) may not be construed to require a school district to offer access to activities governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a pupil who is not otherwise eligible under the rules of the organization.

(11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this title and who is:

(a) a resident of the district or a nonresident student admitted by trustees under a student attendance agreement and who is attending a school of the district;

(b) unable to attend school due to a medical reason certified by a medical doctor and receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(c) unable to attend school due to the student's incarceration in a facility, other than a youth detention center, and who is receiving individualized educational services supervised by the district, at district expense, at a home or facility that does not offer an educational program;

(d) receiving special education and related services, other than day treatment, under a placement by the trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's expense under an approved individual education plan supervised by the district;

(e) participating in the running start program at district expense under 20-9-706;

(f) receiving educational services, provided by the district, using appropriately licensed district staff at a private residential program or private residential facility licensed by the department of public health and human services;

(g) enrolled in an educational program or course provided at district expense using electronic or offsite delivery methods, including but not limited to tutoring, distance learning programs, online programs, and technology delivered learning programs, while attending a school of the district or any other nonsectarian offsite instructional setting with the approval of the trustees of the district. The pupil shall:

(i) meet the residency requirements for that district as provided in 1-1-215;

(ii) live in the district and must be eligible for educational services under the Individuals With Disabilities Education Act or under 29 U.S.C. 794; or

(iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

(h) a resident of the district attending a Montana job corps program under an interlocal agreement with the district under 20-9-707.

(12) (a) For an elementary or high school district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever generates the greatest maximum general fund budget.

(b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and high school programs pursuant to subsection (12)(a) and then combined.

(13) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

(a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the previous 2 school fiscal years; and

(b) dividing the sum calculated under subsection (13)(a) by three."

**Section 14.** Section 20-9-313, MCA, is amended to read:

**"20-9-313. Circumstances under which regular average number belonging may be increased. (1)**

The average number belonging of a school, calculated in accordance with the ANB formula prescribed in 20-9-311, may be increased when:

~~(1)~~(a) the opening of a new elementary school or the reopening of an elementary school has been approved in accordance with 20-6-502. The average number belonging for the school must be established by the county superintendent and approved, disapproved, or adjusted by the superintendent of public instruction.

~~(2)~~(b) the opening or reopening of a high school or a branch of the county high school has been

1 approved in accordance with 20-6-503, 20-6-504, or 20-6-505. The average number belonging for the high school  
2 must be established by the county superintendent's estimate, after an investigation of the probable number of  
3 pupils that will attend the high school.

4 ~~(3)(c)~~ a district anticipates an increase in the average number belonging due to the closing of a private  
5 or public school in the district or a neighboring district. The estimated increase in average number belonging must  
6 be established by the trustees and the county superintendent and approved, disapproved, or adjusted by the  
7 superintendent of public instruction no later than the fourth Monday in June.

8 ~~(4)(d)~~ a district anticipates an unusual enrollment increase in the ensuing school fiscal year. The increase  
9 in average number belonging must be based on estimates of increased enrollment approved by the  
10 superintendent of public instruction and must be computed in the manner prescribed by 20-9-314.

11 ~~(5)(e)~~ for the initial year of operation of a kindergarten program established under 20-7-117(1), the ANB  
12 to be used for budget purposes is ~~the same as:~~

13 (i) one-half the number of 5-year-old children residing in the district as of September 10 of the preceding  
14 school year, either as shown on the official school census or as determined by some other procedure approved  
15 by the superintendent of public instruction, for the purpose implementing a half-time kindergarten program as  
16 provided in 20-1-301; or

17 (ii) the number of 5-year-old children residing in the district as of September 10 of the preceding school  
18 year, either as shown on the official school census or as determined by some other procedure approved by the  
19 superintendent of public instruction, for the purpose of implementing a full-time kindergarten program as provided  
20 in 20-1-301; or

21 ~~(6)(f)~~ a high school district provides early graduation for a student who completes graduation  
22 requirements in less than eight semesters or the equivalent amount of secondary school enrollment. The increase  
23 must be established by the trustees as though the student had attended to the end of the school fiscal year and  
24 must be approved, disapproved, or adjusted by the superintendent of public instruction.

25 (2) This section does not apply to the expansion of a half-time kindergarten program to a full-time  
26 kindergarten program."

27  
28 **Section 15.** Section 20-9-314, MCA, is amended to read:

29 **"20-9-314. (Temporary) Procedures for determining eligibility and amount of increased average**  
30 **number belonging due to unusual enrollment increase.** A district that anticipates an unusual increase in

enrollment in the ensuing school fiscal year, as provided for in ~~20-9-313(4)~~ 20-9-313(1)(d), may increase its basic entitlement and total per-ANB entitlement for the ensuing school fiscal year in accordance with the following provisions:

(1) Prior to June 1, the district shall estimate the elementary or high school enrollment to be realized during the ensuing school fiscal year, based on as much factual information as may be available to the district.

(2) No later than June 1, the district shall submit its application for an unusual enrollment increase by elementary or high school level to the superintendent of public instruction. The application must include:

(a) the enrollment for the current school fiscal year;

(b) the average number belonging used to calculate the basic entitlement and total per-ANB entitlement for the current school fiscal year;

(c) the average number belonging that will be used to calculate the basic entitlement and total per-ANB entitlement for the ensuing school fiscal year;

(d) the estimated enrollment, including the factual information on which the estimate is based, as provided in subsection (1); and

(e) any other information or data that may be requested by the superintendent of public instruction.

(3) The superintendent of public instruction shall immediately review all the factors of the application and shall approve or disapprove the application or adjust the estimated average number belonging for the ensuing ANB calculation period. After approving an estimate, with or without adjustment, the superintendent of public instruction shall:

(a) determine the percentage by which the estimated enrollment exceeds the enrollment used for the budgeted ANB; and

(b) approve an increase of the average number belonging used to establish the ensuing year's basic entitlement and total per-ANB entitlement in accordance with subsection (5) if the increase in subsection (3)(a) is greater than 6%.

(4) The superintendent of public instruction shall notify the district of the decision by the fourth Monday in June.

(5) Whenever an unusual enrollment increase is approved by the superintendent of public instruction, the increase of the average number belonging used to establish the basic entitlement and total per-ANB entitlement for the ensuing ANB calculation period is determined using the difference between the enrollment for the ensuing school fiscal year and 106% of the enrollment used to calculate the budgeted ANB. The amount

determined is the maximum allowable increase added to the average number belonging for the purpose of establishing the ensuing year's basic entitlement and total per-ANB entitlement.

(6) (a) Any entitlement increases resulting from provisions of this section must be reviewed at the end of the ensuing school fiscal year.

(b) If the actual enrollment is less than the enrollment used to determine budgeted ANB, the superintendent of public instruction shall revise the total per-ANB entitlement and basic entitlement calculations, as provided in subsection (5), using the actual enrollment in place of the estimated enrollment.

(c) All total per-ANB entitlements received by the district in excess of the revised entitlements are overpayments subject to the refund provisions of 20-9-344(4). (Terminates June 30, 2007--sec. 25(2), Ch. 462, L. 2005.)

**20-9-314. (Effective July 1, 2007) Procedures for determining eligibility and amount of increased average number belonging due to unusual enrollment increase.** A district that anticipates an unusual increase in enrollment in the ensuing school fiscal year, as provided for in ~~20-9-313(4)~~ 20-9-313(1)(d), may increase its basic entitlement and total per-ANB entitlement for the ensuing school fiscal year in accordance with the following provisions:

(1) Prior to June 1, the district shall estimate the elementary or high school enrollment to be realized during the ensuing school fiscal year, based on as much factual information as may be available to the district.

(2) No later than June 1, the district shall submit its application for an unusual enrollment increase by elementary or high school level to the superintendent of public instruction. The application must include:

(a) the enrollment for the current school fiscal year;

(b) the average number belonging used to calculate the basic entitlement and total per-ANB entitlement for the current school fiscal year;

(c) the average number belonging that will be used to calculate the basic entitlement and total per-ANB entitlement for the ensuing school fiscal year;

(d) the estimated enrollment, including the factual information on which the estimate is based, as provided in subsection (1); and

(e) any other information or data that may be requested by the superintendent of public instruction.

(3) The superintendent of public instruction shall immediately review all the factors of the application and shall approve or disapprove the application or adjust the estimated average number belonging for the ensuing ANB calculation period. After approving an estimate, with or without adjustment, the superintendent of public

instruction shall:

(a) determine the percentage ~~increase~~ by which the estimated enrollment ~~increase~~ exceeds the ~~current~~ enrollment USED FOR THE BUDGETED ANB; and

(b) approve an increase of the average number belonging used to establish the ensuing year's basic entitlement and total per-ANB entitlement in accordance with subsection (5) if the increase in subsection (3)(a) is at least 6%.

(4) The superintendent of public instruction shall notify the district of the decision by the fourth Monday in June.

(5) Whenever an unusual enrollment increase is approved by the superintendent of public instruction, the increase of the average number belonging used to establish the basic entitlement and total per-ANB entitlement for the ensuing ANB calculation period is DETERMINED USING the difference between the enrollment for the ensuing school fiscal year and 106% of the ~~current~~ enrollment USED TO CALCULATE THE BUDGETED ANB. The amount determined is the maximum allowable increase added to the average number belonging for the purpose of establishing the ensuing year's basic entitlement and total per-ANB entitlement.

(6) (A) Any entitlement increases resulting from provisions of this section must be reviewed at the end of the ensuing school fiscal year.

(B) If the actual enrollment is less than ~~the average number belonging used for BASE funding program and entitlement calculations~~ THE ENROLLMENT USED TO DETERMINE THE BUDGETED ANB, the superintendent of public instruction shall revise the total per-ANB entitlement and basic entitlement calculations, AS PROVIDED IN SUBSECTION (5), using the actual ~~average number belonging~~ ENROLLMENT IN PLACE OF THE ESTIMATED ENROLLMENT. All total per-ANB entitlements received by the district in excess of the revised entitlements are overpayments subject to the refund provisions of 20-9-344(4)."

**Section 16.** Section 20-9-327, MCA, is amended to read:

**"20-9-327. Quality educator payment.** (1) (a) The state shall provide a quality educator payment to:

(i) public school districts, as defined in 20-6-101 and 20-6-701;

(ii) special education cooperatives, as described in 20-7-451;

(iii) the Montana school for the deaf and blind, as described in 20-8-101; and

(iv) state youth correctional facilities, as defined in 41-5-103.

(b) A special education cooperative that has not met the requirements of 20-7-453 and 20-7-454 may

not be funded under the provisions of this section except by approval of the superintendent of public instruction.

(2) (a) The quality educator payment for special education cooperatives must be distributed directly to those entities by the superintendent of public instruction.

(b) The quality educator payment for the Montana school for the deaf and blind must be distributed to the Montana school for the deaf and blind.

(c) The quality educator payment for Pine Hills and Riverside youth correctional facilities must be distributed to those facilities by the department of corrections.

(3) The quality educator payment is ~~\$2,000 times~~ calculated as provided in 20-9-306, using the number of full-time equivalent educators, as reported to the superintendent of public instruction for accreditation purposes in the previous school year, each of whom:

(a) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection (1) in a position that requires an educator license in accordance with the administrative rules adopted by the board of public education; or

(b) (i) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, ~~30-17-302~~ 37-17-302, 37-22-301, 37-23-201, 37-24-301, or 37-25-302; and

(ii) is employed by an entity listed in subsection (1) to provide services to students."

**Section 17.** Section 20-9-329, MCA, is amended to read:

**"20-9-329. Indian education for all payment.** (1) The state shall provide an Indian education for all payment to public school districts, as defined in 20-6-101 and 20-6-701, to implement the provisions of Article X, section 1(2), of the Montana constitution and Title 20, chapter 1, part 5.

(2) The Indian education for all payment is ~~the greater of \$100 for each district or \$20.40 for each ANB,~~ calculated as provided in 20-9-311, for each fiscal year 20-9-306 and is a component of the BASE budget of the district.

(3) The district shall deposit the payment in the general fund of the district.

(4) A public school district that receives an Indian education for all payment may not divert the funds to any purpose other than curriculum development, providing curriculum and materials to students, and providing training to teachers about the curriculum and materials. A public school district shall file an annual report with the office of public instruction, in a form prescribed by the superintendent of public instruction, that specifies how the Indian education for all funds were expended."



1  
2       **Section 18.** Section 20-9-330, MCA, is amended to read:

3       **"20-9-330. American Indian achievement gap payment.** (1) The state shall provide an American  
4 Indian achievement gap payment to public school districts, as defined in 20-6-101 and 20-6-701, for the purpose  
5 of closing the educational achievement gap that exists between American Indian students and non-Indian  
6 students.

7       (2) (a) The American Indian achievement gap payment is ~~\$200 for each~~ calculated as provided in  
8 20-9-306, using the number of American Indian ~~student~~ students enrolled in the district based on the count of  
9 regularly enrolled students on the first Monday in October of the prior school year as reported to the office of  
10 public instruction.

11       (b) A school district may not require a student to disclose the student's race.

12       (3) The district shall deposit the payment in the general fund of the district.

13       (4) On or before September 15, 2010, the office of public instruction shall report to the governor and the  
14 legislature on the change in status of standardized test scores, graduation rates, and drop-out rates of American  
15 Indian students using fiscal year 2006 data as a baseline."  
16

17       **Section 19.** Section 20-9-366, MCA, is amended to read:

18       **"20-9-366. Definitions.** As used in 20-9-366 through 20-9-371, the following definitions apply:

19       (1) "County retirement mill value per elementary ANB" or "county retirement mill value per high school  
20 ANB" means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000,  
21 with the quotient divided by the total county elementary ANB count or the total county high school ANB count  
22 used to calculate the elementary school districts' and high school districts' current year total per-ANB entitlement  
23 amounts.

24       (2) (a) "District guaranteed tax base ratio" for guaranteed tax base funding for the BASE budget of an  
25 eligible district means the taxable valuation in the previous year of all property in the district divided by the sum  
26 of the district's current year BASE budget amount less direct state aid and the state special education allowable  
27 cost payment.

28       (b) "District mill value per ANB", for school facility entitlement purposes, means the taxable valuation in  
29 the previous year of all property in the district divided by 1,000, with the quotient divided by the ANB count of the  
30 district used to calculate the district's current year total per-ANB entitlement amount.

(3) "Facility guaranteed mill value per ANB", for school facility entitlement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 140% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB count used to calculate the elementary school districts' and high school districts' current year total per-ANB entitlement amounts.

(4) (a) "Statewide elementary guaranteed tax base ratio" or "statewide high school guaranteed tax base ratio", for guaranteed tax base funding for the BASE budget of an eligible district, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by ~~175%~~ 193% and divided by the total sum of either the state elementary school districts' or the high school districts' current year BASE budget amounts less total direct state aid.

(b) "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB", for school retirement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 121% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB amount used to calculate the elementary school districts' and high school districts' current year total per-ANB entitlement amounts."

**Section 20.** Section 20-9-622, MCA, is amended to read:

**"20-9-622. Guarantee account.** (1) There is a guarantee account in the state special revenue fund. The guarantee account is intended to:

(a) stabilize the long-term growth of the permanent fund; and

(b) maintain a constant and increasing distributable revenue stream. All realized capital gains and all distributable revenue must be deposited in the guarantee account. Except as provided in subsections (2) and (3), the guarantee account is statutorily appropriated, as provided in 17-7-502, for distribution to school districts through school equalization aid as provided in 20-9-343.

(2) As long as a portion of the coal severance tax loan authorized in section 8, Chapter 418, Laws of 2001, is outstanding, the department of natural resources and conservation shall monthly transfer from the guarantee account to the general fund an amount that represents the amount of interest income that would be earned from the investment of the amount of the loan that is currently outstanding. When the loan is fully paid, all mineral royalties deposited in the guarantee account must be transferred to the school facility improvement account pursuant to 17-6-340.

(3) The revenue distributed through 20-9-534 must be used for the purposes of 20-9-533."

**Section 21.** Section 20-26-602, MCA, is amended to read:

**"20-26-602. Governor's postsecondary scholarship program -- duties of council -- duties of board.**

(1) There is a governor's postsecondary scholarship program administered by the board through the office of the commissioner of higher education with assistance from ~~a three-member~~ the council created in 2-15-1524.

~~(2) The council shall review the lists and applications submitted in accordance with procedures adopted by the board pursuant to 20-26-611. From those lists and applications, the council shall prepare and submit a final list of qualified scholarship recipients to the board. Following consultation with the council, the board shall pay for scholarships awarded to qualified recipients.~~

~~———— (3) The board may accept donations from public or private sources and shall distribute these funds to the scholarship program and in accordance with the criteria determined by the board in consultation with the council.~~

~~———— (4) Funds from public sources may not be used to pay for scholarships to students enrolled in Montana private colleges.~~

~~———— (5) Funds from private sources must be deposited into an account in the state special revenue fund established in 17-2-102 to be used by the board to pay for scholarships for students enrolled in postsecondary institutions or, when designated by the donor, in Montana private colleges.~~

(2) The purpose of the governor's postsecondary scholarship program is to provide scholarships on the basis of need and merit to Montana residents towards the cost of attendance at 2-year and 4-year postsecondary institutions and to allocate some of the scholarships to specific areas of study that promote economic development or address critical workforce shortage areas in Montana.

(3) The council shall gather information and make recommendations for the board to consider in the board's adoption of policies and procedures under this part. The recommendations must attempt to promote efficient administration of the governor's postsecondary scholarship program.

(4) After consideration of the council's recommendations pursuant to subsection (3), the board shall adopt policies and procedures for administration of the governor's postsecondary scholarship program consistent with this part.

(5) Subject to available funding, scholarships must be awarded on an annual basis to qualified recipients pursuant to policies adopted by the board. The board may delegate to Montana high schools and postsecondary

institutions the authority to review scholarship applications and select scholarship recipients."

**Section 22.** Section 20-26-603, MCA, is amended to read:

**"20-26-603. Definitions.** As used in this part, the following definitions apply:

(1) "Accredited" means a school that is accredited by the board of public education pursuant to 20-7-102.

~~(2) "At-large student" means a Montana resident who meets the admission requirements established by board policy or by the admissions office of a Montana private college.~~

~~(3)~~(2) "Board" means the board of regents of higher education created by Article X, section 9(2), of the Montana constitution.

~~(4) "Certificate program" or "certificate" means a program generally completed in 1 academic year that requires less than 60 credits and that is not a self-supporting, customized training course or the certificate awarded for completion of the program.~~

~~(5)~~(3) "Council" means the governor's postsecondary scholarship advisory council created in 2-15-1524.

~~(6)~~(4) "Montana private college" means a nonprofit private educational institution as defined in 15-30-163(3)(b).

~~(7) "Nontraditional student" means a first-time student who enters a postsecondary institution or Montana private college more than 3 years after high school graduation. As used in this subsection, "first-time student" means a student who is attending a postsecondary institution to receive a first certificate or associate or baccalaureate degree.~~

~~(8)~~(5) "Postsecondary institution" means:

(a) a unit of the Montana university system, as defined in 20-25-201;

(b) a Montana community college, defined and organized as provided in 20-15-101; or

(c) an accredited tribal community college located in the state of Montana.

~~(9)~~(6) "Scholarship" means a payment toward tuition and mandatory fees, excluding room and board the cost of attendance at a qualifying postsecondary institution, rounded up to the nearest dollar.

~~(10)~~(7) "Title IV" refers to Title IV of the Higher Education Act of 1965, as amended."

**NEW SECTION. Section 23. Types and amounts of scholarships -- criteria.** (1) Scholarships must be awarded under the governor's postsecondary scholarship program in accordance with the requirements of this section and criteria established by board policy and procedures pursuant to 20-26-602 and this section.

(2) Scholarships must be awarded on the basis of merit or need. Scholarships may be for either \$1,000 or \$2,000. Merit-based and need-based scholarships must be awarded in approximately equal monetary amounts.

(3) A merit-based scholarship must be awarded to at least one graduate of every accredited high school in Montana, including accredited nonpublic high schools.

(4) A portion of the money appropriated for need-based scholarships must be designated for applicants planning to attend 2-year postsecondary institutions or 2-year programs at 4-year postsecondary institutions and who plan to focus on specific areas of study that promote economic development or address current or projected critical workforce shortage areas in Montana, such as technology, health sciences, or trades, as provided under policies established by the board pursuant to 20-26-602.

**NEW SECTION. Section 24. Eligibility requirements -- renewals -- limited appeals.** (1) Scholarships must be awarded under the governor's postsecondary scholarship program in accordance with the eligibility requirements of this section and pursuant to policies and procedures established by the board pursuant to 20-26-602 and this section.

(2) To be eligible to receive a scholarship, a student must be a Montana resident eligible for in-state tuition as determined by board policy.

(3) To be eligible to receive a merit-based scholarship, a student must have attained a minimum grade point average or numerical score on a standardized college admission test as prescribed by board policy.

(4) To be eligible to receive a need-based scholarship, a student must complete the standard free application for federal student aid form and the student's expected family contributions may not exceed the cost of attendance at the postsecondary institution that the student expects to attend.

(5) Scholarships must be awarded to students seeking their first certificate or their 2-year or 4-year degree at a postsecondary institution.

(6) Scholarships may be renewed in accordance with board policy. The policy must include proof of satisfactory academic performance.

(7) Scholarships may be terminated in accordance with board policy.

(8) The board shall establish policies and procedures:

(a) to allow a student to transfer from one postsecondary institution to another without loss of the scholarship; and

(b) to ensure compliance with [section 25(3)] if a student transfers from a postsecondary institution to a Montana private college.

(9) A scholarship recipient's right to receive other financial aid, awards, and scholarships may be limited as required by federal or state law or board policy.

(10) A student is ineligible to receive a scholarship under the provisions of this part if the student:

(a) has been awarded a Montana university system honor scholarship;

(b) has failed to meet the federal Title IV selective service registration requirements;

(c) is in default on a Title IV or state of Montana educational loan or owes a refund to a federal Title IV or state of Montana student financial aid program; or

(d) is incarcerated. Upon release, the student may begin receiving scholarship payments if the student meets all other eligibility requirements. If approved by the board, credits earned during incarceration may be counted toward eligibility.

(11) (a) Except as provided in subsection (11)(b), scholarship awards are not subject to appeal.

(b) A student may appeal the termination of a scholarship based on extenuating circumstances in accordance with board policy.

**NEW SECTION. Section 25. Public and private sources of funding -- restrictions on use -- accounting.** (1) The board may accept donations from public or private sources and shall distribute those funds in accordance with this part.

(2) Except when a donor of private funds designates that scholarship funds must be given to students attending a private college, scholarship awards are determined solely by the board or an entity designated by the board pursuant to board policy adopted under 20-26-602.

(3) Funds from public sources may not be used to pay for scholarships for students enrolled in Montana private colleges.

(4) Funds from private sources must be deposited into an account in the state special revenue fund established in 17-2-102 to pay for scholarships for students enrolled in postsecondary institutions or, when designated by the donor, in Montana private colleges.

(5) Each postsecondary institution or Montana private college that receives scholarship payments shall prepare and submit to the board, in accordance with procedures and policies established by the board, a report of the postsecondary institution's or Montana private college's administration of the scholarships and a complete

1 accounting of scholarship funds.

2 (6) Funds from a scholarship may not be used to pay for remedial or college-preparatory course work.

3 (7) Except for funds donated from private sources, the obligation for funding the governor's  
4 postsecondary scholarship program is an obligation of the state. This section may not be construed to require  
5 the board to provide scholarships to an eligible student without an appropriation to the board for the purposes  
6 of this part. Funds from private sources may not be used as an offset to general fund appropriations.

7  
8 **NEW SECTION. Section 26. Capital investment and deferred maintenance one-time-only payment**

9 **-- definition -- funding.** (1) For fiscal year 2008, there is a one-time-only school unit payment to each school  
10 district based upon the calculated number of school units within the school district as provided in subsection (3).  
11 The one-time-only school unit payment may be used by schools for capital investments and deferred  
12 maintenance.

13 (2) (a) For the purposes of this section, "school unit" means, subject to subsection (2)(b):

14 (i) 800 ANB for a high school district;

15 (ii) 250 ANB for the K-6 ANB of an elementary district with an approved junior high school, 7th and 8th  
16 grade program, or middle school;

17 (iii) 250 ANB for the K-8 ANB of an elementary district without an approved junior high school, 7th and  
18 8th grade program, or middle school; and

19 (iv) 450 for the 7th and 8th grade ANB of an elementary district with an approved junior high school, 7th  
20 and 8th grade program, or middle school.

21 (b) Each school district must receive a payment for at least one school unit. A district with ANB greater  
22 than the applicable number described in subsection (2)(a) must receive an additional unit calculated by dividing  
23 the current year ANB by the appropriate number in subsection (2)(a) and rounding that number up to the nearest  
24 tenth.

25 (3) The capital investment and deferred maintenance one-time-only school unit payment is calculated  
26 by dividing the one-time-only appropriation for capital investment and deferred maintenance as provided in  
27 [LC0002], not to exceed \$30 million, by the number of school units in the state. The office of public instruction  
28 shall distribute the calculated total one-time-only school unit payment to each school district based upon the  
29 number of school units in each school district according to the schedule provided in 20-9-344. School districts  
30 must deposit the money in the miscellaneous programs fund to be used for capital investment and deferred

1 maintenance. Money may be retained by the district and spent for the purposes authorized in this section over  
2 a period of 10 years, after which, if the money is not spent, it must be reverted to the state general fund.

3  
4 **NEW SECTION. Section 27. Distribution of funds for kindergarten.** Money appropriated to the office  
5 of public instruction for startup costs for full-time kindergarten in the 2009 biennium must be distributed based  
6 on the kindergarten enrollment in school fiscal year 2007 to all school districts that the trustees of which have  
7 designated, prior to July 1, 2012, will offer a full-time kindergarten program in accordance with 20-7-117. The  
8 school district shall deposit the money in the miscellaneous programs fund and shall use the money for startup  
9 costs associated with the development of a full-time kindergarten program. Money remaining with the office of  
10 public instruction on July 1, 2012, for school districts that have not indicated their intent to participate in the  
11 full-time kindergarten program must be reverted to the state general fund.

12  
13 **NEW SECTION. Section 28. Distribution of one-time-only money for Indian education for all.**  
14 Money appropriated from the general fund as one-time-only money in the 2009 biennium to the office of public  
15 instruction for Indian education for all must be allocated to districts on a per-ANB basis, calculated as provided  
16 in 20-9-311, with a minimum of \$500 for each district. A district receiving funds under this section shall deposit  
17 the money in the miscellaneous programs fund and may not transfer the money to another fund.

18  
19 **NEW SECTION. Section 29. Repealer.** Sections 20-26-611, 20-26-612, and 20-26-613, MCA, are  
20 repealed.

21  
22 **NEW SECTION. Section 30. Codification instruction.** (1) [Sections 1 through 6] are intended to be  
23 codified as an integral part of Title 20, chapter 4, and the provisions of Title 20, chapter 4, apply to [sections 1  
24 through 6].

25 (2) [Section 8] is intended to be codified as an integral part of Title 20, chapter 9, and the provisions of  
26 Title 20, chapter 9, apply to [section 8].

27 (3) [Sections 23 through 25] are intended to be codified as an integral part of Title 20, chapter 26, part  
28 6, and the provisions of Title 20, chapter 26, part 6, apply to [sections 23 through 25].

29  
30 **NEW SECTION. Section 31. Effective date.** [This act] is effective July 1, 2007.



4 - END -